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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,947

11/14/2003

Thomas J. Nelson

WIL-41127-70

7422

25312 7590 10/07/2008
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EXAMINER

GILBERT, WILLIAM V

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

10/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/706,947	Applicant(s) NELSON, THOMAS J.	
	Examiner William V. Gilbert	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7,16-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,16-18,20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is a Final Office Action. Claims 3, 6, 8-15, 19 and 21-26 have been cancelled, and claim 7 is withdrawn from consideration as being dependent from a cancelled claim. Claims 1, 2, 4, 5, 16-18 and 20 are examined below.

Specification

1. The disclosure is objected to because of the following informalities: page 5 of the specification is missing, which the examiner assumes contains the brief description of the drawings.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United

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States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 2 are rejected under 35 U.S.C. 102(a), or in the event applicant can overcome the 102(a) reference, 102(e) as being anticipated by Wright (U.S. Patent No. 6,588,165).

Claim 1: Wright discloses a disengageable connector for interconnecting panels comprising a body (see attached Fig. 4B from Wright below) including a base ("A") and projection ("B") extending from the base, the base has top and bottom surfaces (portions "F" and "A" denote the top surface and proximate "W" is the bottom surface, respectively), the underside has first, second and third footing members ("C", "D" and "E" below, respectively) first and second protrusions ("F", "G", respectively), the protrusions are spaced from the projection and located on either side of the projection, the first and second footing members are beneath the first and second protrusions and the third footing member is beneath the projection, the footing members are spaced by recesses (proximate 43) extending fully between the members. The language, "shaped and dimensioned to compress...foam pad" is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed

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invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

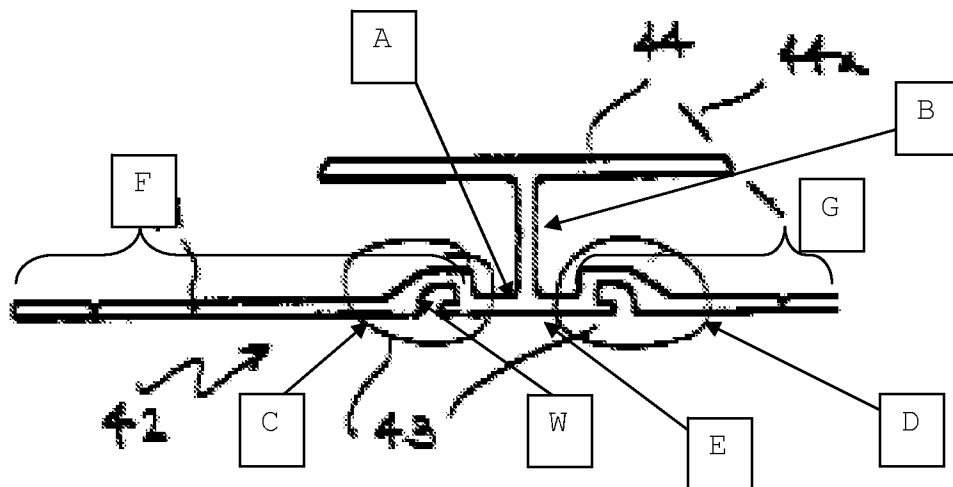


Figure 4B from Wright

Claim 2: the projection extends vertically from the top surface of the base (as shown), the member has top and bottom portions (e.g. 44 is the top portion) and right and left halves (as shown). The limitation "for insertion into edges...connected" is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright.

Claim 4: Wright discloses a disengageable connector comprising a longitudinally extending connector body having a similar profile along its entire length, the connector has a base ("A") and a projection ("B") extending from the base, the

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base has top and bottom surfaces (as described in rejection above), first, second and third footing members ("C", "D" and "E") extending downwardly from the bottom surface of the base, first and second protrusions ("F" and "G") extending vertically from the base, the protrusions are spaced apart from the projection and are located on either side of the projection, the footing members are beneath the protrusions and projection, respectively. The limitation "shaped and dimensioned...foam pad" is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Wright does not disclose the actual depth of the footing members as approximately 0.036 inches in depth. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have the dimensions footing members as claimed as claimed because applicant failed to state a criticality for the necessity of the limitation and the prior art of record is capable of being designed to meet the limitation as claimed and maintain within the scope of the invention. See MPEP 2144.04(IV)(A) citing *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338 (Fed. Cir. 1984),

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the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Claim 5: the protrusions extend substantially the entire length of the connector (as shown).

Claims 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Rockar (U.S. Patent No. 4,683,693).

Claim 16: Wright discloses a connector for interconnecting panels comprising a body with a base ("A") having a longitudinal extent with a first and second end, the connector further includes a projection ("B") extending from a top surface of the base and having a central stem ("shown by arrow "B") with first and second outwardly extending members (44) extending from the stem, first and second protrusions ("F" and "G", the protrusions extend vertically from portion indicated as "A") extending from the base adjacent a first edge, and the protrusions decrease in height (see portions indicated by proximate 43) as it extends from the center of the base towards the edge of the base.

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Wright does not disclose the projection extending beyond the longitudinal extent of the base. Rockar discloses a framing system for panels (Figs. 5 and 6) that has a portion (proximate 142) that extends beyond the longitudinal extent of the base along at least one end of the base (114) to form an outwardly extending ear. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have this structural limitation in order to provide the ability to join panels without disruption at points intersecting each other.

Claim 17: the projection includes a top and bottom portions and right and left halves. The language "for insertion into edges...connected" is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 18: the base includes first and second footing members ("C" and "D") extending downwardly from the bottom surface ("W"), the footing members extend the entire length of the base (as shown). The language "shaped and dimensioned...second protrusion" is a statement of intended use

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of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 20: the combination of Wright in view of Rockar would result in the protrusions extending beyond the longitudinal extend to the base and forming a locking tab.

Response to Arguments

4. Applicant's arguments with respect to the have been considered but are moot in view of the new ground(s) of rejection as applicant has amended the claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS

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of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. V. G./
Examiner, Art Unit 3635
/Basil Katcheves/
Primary Examiner, Art Unit 3635